

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Robert G. Taub, Chairman;
Mark Acton, Vice Chairman;
Tony Hammond; and
Nanci E. Langley

Competitive Product Prices
Global Reseller Expedited Package Services 2
(MC2013-51)
Negotiated Service Agreement

Docket No. CP2016-89

ORDER APPROVING MODIFICATION TO A
GLOBAL RESELLER EXPEDITED PACKAGE SERVICES 2
NEGOTIATED SERVICE AGREEMENT

(Issued January 12, 2017)

I. INTRODUCTION

The Postal Service seeks to modify a Global Reseller Expedited Package Services 2 negotiated service agreement.¹ For the reasons discussed below, the Commission approves Modification One.

¹ Notice of the United States Postal Service of Filing Modification One to a Global Reseller Expedited Package Contracts 2 Negotiated Service Agreement, December 23, 2016 (Notice). The modification is an attachment to the Notice (Modification One).

In Order No. 3008, the Commission approved the Global Reseller Expedited Package Services 2 negotiated service agreement (Existing Agreement).² On December 23, 2016, the Postal Service filed notice that it has agreed to Modification One to the Existing Agreement. On December 27, 2016, the Commission issued a notice reopening this docket to consider Modification One, appointing a Public Representative, and providing interested persons with an opportunity to comment.³

The Postal Service intends to notify the reseller of the effective date within 30 days after the Commission issues all necessary regulatory approval. Modification One at 1.⁴ The Postal Service filed supporting financial documentation and a certified statement, as required by 39 C.F.R. § 3015.5. *Id.* The Postal Service asserts that Modification One will not impair the ability of the contract to comply with 39 U.S.C. § 3633. Notice, Attachment 2 at 1.

On January 4, 2017, the Commission issued Chairman's Information Request No. 1 in order to obtain more up-to-date cost data for the Existing Agreement.⁵ On January 11, 2017, the Postal Service filed its Response to CHIR No. 1.⁶ As part of its Response to CHIR No. 1, the Postal Service filed revised financial workpapers under seal, which included updated costs based on its filing in Docket No. ACR2016.⁷

² See Order Approving Additional Global Reseller Expedited Package Services 2 Negotiated Service Agreement, January 8, 2016 (Order No. 3008).

³ See Docket No. CP2016-25, *et al.*, Notice Initiating Docket(s) for Recent Postal Service Negotiated Service Agreement Filings, December 27, 2016.

⁴ *But* see Notice at 1 ("Attached to this notice is Modification One, which the customer and the Postal Service have executed and intend to go into effect upon filing.").

⁵ Chairman's Information Request No. 1, January 4, 2017 (CHIR No. 1).

⁶ Response of the United States Postal Service to Chairman's Information Request No. 1, with Portions Filed Under Seal, January 11, 2017 (Response to CHIR No. 1). The Postal Service also filed a motion for late acceptance of its Response to CHIR No. 1. Motion for Late Acceptance of Response of the United States Postal Service to Chairman's Information Request No. 1, with Portions Filed Under Seal, January 11, 2017 (Motion). The Motion is granted.

⁷ Docket No. ACR2016, United States Postal Service FY 2016 Annual Compliance Report, December 29, 2016; Response to CHIR No. 1, question 2.

II. COMMENTS

Comments were filed by the Public Representative.⁸ No other person submitted comments. The Public Representative reviewed the Notice, Modification One, and the financial model filed under seal. PR Comments at 2. Based on that review, he concludes that the Existing Agreement, as modified, should continue to generate sufficient revenue to cover costs and satisfy 39 U.S.C. § 3633(a). *Id.*

III. COMMISSION ANALYSIS

The Commission has reviewed the Notice, the accompanying materials filed under seal, the Postal Service's Response to CHIR No. 1, and the comments filed by the Public Representative.

Cost considerations. The Commission reviews competitive product prices to ensure that each product covers its attributable costs, does not cause market dominant products to subsidize competitive products, and contributes to the Postal Service's institutional costs. 39 U.S.C. § 3633(a); 39 C.F.R. §§ 3015.5 and 3015.7. As long as the revenue generated by the product exceeds its attributable costs, the product is unlikely to reduce the contribution of competitive products as a whole or to adversely affect the ability of competitive products as a whole to contribute an appropriate share of institutional costs. In other words, if a product covers its attributable costs, it is likely to comply with 39 U.S.C. § 3633(a).

Modification One replaces Annexes 1 and 2 as well as Article 11, which describes the term of the Existing Agreement, as modified. Notice at 1.

Based on a review of the record, including the Postal Service's Response to CHIR No. 1 and the revised financial workpapers filed under seal, the Commission finds that the Existing Agreement, as modified, should cover its attributable costs. Although the Postal Service suggests the Commission could provisionally approve Modification

⁸ Public Representative Comments on Postal Service Notice of Filing Modification One to a Global Reseller Expedited Package Contracts 2 Negotiated Service Agreement, January 5, 2017 (PR Comments).

One subject to subsequent review of further revised workpapers being filed, the Commission finds conditional approval unnecessary.⁹

Consequently, the Commission finds that Modification One should allow the Global Reseller Expedited Package Services 2 product to continue to comply with 39 U.S.C. § 3633(a)(2). For this reason, the Commission finds that Modification One should not result in competitive products as a whole being subsidized by market dominant products, in accordance with 39 U.S.C. § 3633(a)(1). Similarly, it finds Modification One is unlikely to prevent competitive products as a whole from contributing an appropriate share of institutional costs, consistent with 39 U.S.C. § 3633(a)(3). Accordingly, a preliminary review of Modification One indicates it is consistent with section 3633(a). The Commission will review the cost coverage of the Existing Agreement, as modified, the cost coverage of the Global Reseller Expedited Package Services 2 product, and the contribution of competitive products as a whole to the Postal Service's institutional costs in the Commission's Annual Compliance Determination to ensure that they continue to comply with 39 U.S.C. § 3633(a).

Other considerations. The Postal Service states that it will notify the reseller of the effective date of Modification One after the Commission issues all necessary regulatory approval. Modification One at 1. The Postal Service shall promptly notify the Commission of the effective date of Modification One.

The Existing Agreement, as modified, is set to expire on February 28, 2018, unless terminated sooner pursuant to Articles 12 and 13 of the Existing Agreement.¹⁰ If the Existing Agreement, as modified, is terminated prior to the scheduled expiration date, the Postal Service shall promptly notify the Commission.

In conclusion, the Commission approves the Existing Agreement, as modified.

⁹ See Response to CHIR No. 1, question 2; see also 39 C.F.R. § 3015.5(c)(1).

¹⁰ Notice at 1; see also Notice of United States Postal Service of Filing a Functionally Equivalent Global Reseller Expedited Package 2 Negotiated Service Agreement, December 29, 2015, Attachment 1 at 3.

IV. ORDERING PARAGRAPHS

It is ordered:

1. The Commission approves the Global Reseller Expedited Package Services 2 negotiated service agreement, as modified.
2. The Postal Service shall promptly notify the Commission of the effective date of Modification One.
3. The Postal Service shall notify the Commission if the Existing Agreement, as modified, terminates prior to the scheduled expiration date.

By the Commission.

Stacy L. Ruble
Secretary